

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
ST. JOSEPH DIVISION**

VICTOR CHUCK POE,	)	
	)	
Plaintiff,	)	
v.	)	No. 11-6016-CV-SJ-FJG
JOHN G. STUMPF, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Pending before the Court are (1) Defendants Mortgage Electronic Registration Systems, Inc. and Wells Fargo Home Mortgage's Motion to Dismiss (Doc. No. 5) and (2) Defendants R.K. Arnold and John G. Stumpf's Motion to Dismiss for Failure to State a Claim (Doc. No. 9). To-date, plaintiff has failed to file suggestions in opposition or otherwise respond to these motions. On April 13, 2011, this Court ordered plaintiff to show cause in writing on or before Wednesday, April 27, 2011, why defendants' motions to dismiss should not be granted. The Court further cautioned plaintiff that if he did not respond, the Court would rule on defendants' Motions to Dismiss based on the record currently before it. Plaintiff was further cautioned that failure to respond to the Order to Show Cause could lead to plaintiff's lawsuit being dismissed for failure to comply with court orders and/or failure to prosecute. Nonetheless, plaintiff has failed to respond to the Court's Order to Show Cause.

Plaintiff's state court action was an Application for Temporary Restraining Order and Permanent Injunction (Doc. No. 1, Ex. A). In this application, plaintiff asserts that defendants (including Wells Fargo Home Mortgage, Mortgage Electronic Registration Systems, Inc., John G. Stumpf (President and CEO of Wells Fargo), R.K. Arnold (President and CEO of Mortgage Electronic Registration Systems, Inc.), and 10,000 John Doe investors) fraudulently misrepresented that they had the right to foreclose on his property and have committed "acts of terrorism" and "acts of war against the United States." After reviewing defendants' motions and the file in this matter (including plaintiff's state court filings), it is clear that (1) plaintiff has failed to sufficiently plead fraud claims under Fed. R.

Civ. P. 9, as he has not pled the who, what, when and how elements of a fraud claim; (2) plaintiff's claims under the USA Patriot Act fail to state a claim in that there is no private right of action under such act, see Medical Supply Chain, Inc. v. Neoforma, Inc., 419 F.Supp.2d 1316, 1330 (D. Kan. 2006); (3) to the extent that plaintiff has pled the "vapor money" theory, such claims are frivolous for the reasons stated by defendants at Doc. No. 7, p. 8; and (4) the claims against individual defendants Stumpf and Arnold fail as plaintiff has not made specific allegations against those individuals and instead apparently seeks to hold them liable as corporate officers (see authorities cited at Doc. No. 9, p.1-2, Doc. No. 10, pp. 7-8).

Accordingly, defendants' motions to dismiss (Doc. Nos. 5 and 9) will be **GRANTED** for the above-mentioned reasons, and plaintiff's claims for fraud, USA Patriot Act violations, "vapor money" theories, and all claims against defendants Stumpf and Arnold will be **DISMISSED WITH PREJUDICE** . To the extent that this order on the pending motions to dismiss does not dispose of all the claims stated in plaintiff's suit (which is doubtful), the Court will **DISMISS** those claims **WITH PREJUDICE** for failure to prosecute and failure to comply with Court Orders.

**IT IS FURTHER ORDERED** that the Clerk of the Court send a copy of this order by regular and certified mail to plaintiff at the following address:

Victor C. Poe  
P.O. Box 647  
Mission, KS 66201

/s/Fernando J. Gaitan, Jr.  
Fernando J. Gaitan, Jr.  
Chief United States District Judge

Dated: 5/3/3011  
Kansas City, Missouri